

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

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|----------------------------|---|----------------------|
| BOBBY JOE ROBINSON, | § | No. 5:19-CV-1107-DAE |
| | § | |
| Plaintiff, | § | |
| | § | |
| vs. | § | |
| | § | |
| U.S. AIR FORCE, TINKER AFB | § | |
| (OKLA, OK), DEPARTMENT OF | § | |
| LABOR (DALLAS, TX), OPM | § | |
| (WASHINGTON, DC), RANDOLPH | § | |
| AFB (SAN ANTONIO, TX), | § | |
| DEPARTMENT OF LABOR | § | |
| (WASHINGTON, DC) E.C.A.B., | § | |
| | § | |
| Defendants. | § | |
| | § | |
| | § | |

ORDER: (1) ADOPTING REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE; AND (2) DISMISSING CASE

Before the Court is a Report and Recommendation (“the Report”) (Dkt. # 8) submitted by United States Magistrate Judge Elizabeth Chestney. Plaintiff Bobby Joe Robinson (“Plaintiff” or “Robinson”) did not file any objections. After reviewing the Report, the Court **ADOPTS** Judge Chestney’s recommendations and **DISMISSES** this case for failure to plead a claim upon which relief could be granted by this Court. (Dkt. # 8.)

Judge Chestney recommended that Plaintiff’s case be dismissed on the basis that it fails to state a claim under the Rehabilitation Act because it is time-

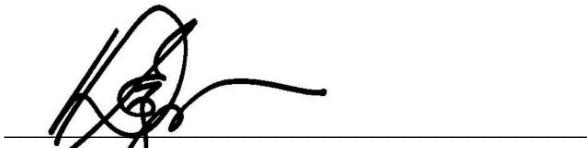
barred or does not fall under this statute. (Dkt. # 8 at 5.) Additionally, Judge Chestney determined that Plaintiff cannot sue for judicial review of his administrative claim before the Office of Workers' Compensation Program ("OWCP"). (Id. at 5–6.) Thereafter, Judge Chestney concluded that Robinson has failed to state a nonfrivolous claim upon which relief can be granted. (Id.); see 28 U.S.C. § 1915(e)(2)(B). Judge Chestney recommended that Robinson's case be dismissed. (Id. at 6.) Objections to the Report were due within 14 days after being served with a copy. None of the parties in this case filed any objections.

Accordingly, where, as here, none of the parties objected to the Magistrate Judge's findings, the Court reviews the Report for clear error. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989). After careful consideration, the Court adopts the Magistrate Judge's Report. The Court finds the Magistrate Judge's conclusions that Plaintiff's case should be dismissed pursuant to 28 U.S.C. § 1915(e) is reasonable and absent of clear error. Therefore, the Court determines that the Magistrate Judge's conclusions and recommendations are neither clearly erroneous nor contrary to law.

Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation (Dkt. # 8) as the opinion of the Court, and **DISMISSES WITH PREJUDICE** Plaintiff's claims in this case. The Clerk's Office is **INSTRUCTED TO ENTER JUDGMENT** and **CLOSE THE CASE**.

IT IS SO ORDERED.

DATE: San Antonio, Texas, January 16, 2020.



David Alan Ezra
Senior United States District Judge